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HAWAII LABOR RELATIONS BOARD

STATE OF HAWAII

In the Matter of)	CASE NO. OSH 2010-24
)	Insp. No. 313078719
DIRECTOR, DEPARTMENT OF LABOR)	
AND INDUSTRIAL RELATIONS,)	ORDER NO. 460
)	ORDER GRANTING COMPLAINANT'S
Complainant,)	MOTION TO STRIKE RESPONDENT'S
)	EXPERT REPORT FILED ON MARCH
vs.)	21, 2011 and ORDER
)	
MARYL PACIFIC CONSTRUCTION,)	
INC.,)	
)	
Respondent.)	
)	
)	

ORDER GRANTING COMPLAINANT'S MOTION
TO STRIKE RESPONDENT'S EXPERT REPORT
FILED ON MARCH 21, 2011

The Complainant's Motion To Strike Respondent's Expert Report Filed on March 21, 2011, filed on January 5, 2012, and having come on for hearing on January 27, 2012, and Herbert B.K. Lau, Deputy Attorney General, appearing for the Director, and Brian G.S. Choy, Esq., appearing for Respondent MARYL PACIFIC

CONSTRUCTION, INC., and the Hawaii Labor Relations Board having reviewed the motion, and having heard the oral argument presented at the hearing on the motion.

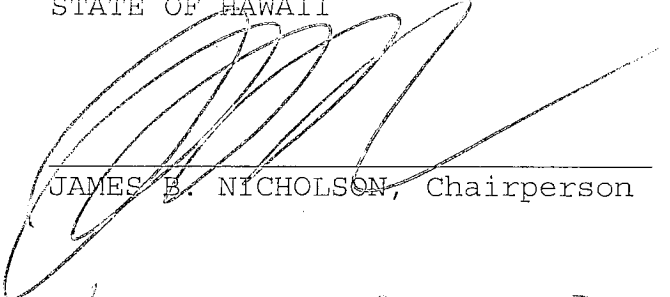
THE LABOR BOARD FINDS that the written report of Walter Chun, Ph.D., dated March 21, 2011, and filed with the Labor Board on the same date, constitutes a legal opinion and argument, and not an expert opinion in occupational safety and health.

THEREFORE, the Labor Board does not credit Walter Chun's report of March 21, 2011, and IT IS HEREBY ORDERED that said written report is excluded from the record of this case. Respondent may present testimony by Mr. Chun at a hearing on the merits subject to qualification in his area of expertise. Respondent's request for attorney's fees and costs is denied.

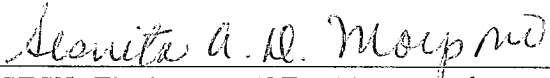
SO ORDERED.

DATED: Honolulu, Hawaii, JAN 31 2012.

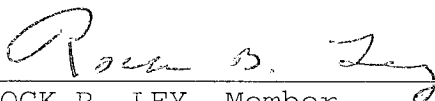
HAWAII LABOR RELATIONS BOARD,
STATE OF HAWAII



JAMES B. NICHOLSON, Chairperson




SESNITA A.D. MOEPONO, Member



ROCK B. LEY, Member

APPROVED AS TO FORM:



DATED: February 1, 2012

BRIAN G.S. CHOY
Attorney for MARYL PACIFIC
CONSTRUCTION, INC.

Director v. Maryl Pacific Construction, Inc.; ORDER GRANTING COMPLAINANT'S
MOTION TO STRIKE RESPONDENT'S EXPERT REPORT FILED ON MARCH 21, 2011